

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company (U39 E) and Modesto Irrigation District for Approval of Agreement Regarding Interconnection of the Altamont Solar Energy Center.

Application 12-08-017  
(Filed August 27, 2012)

**DECISION GRANTING APPLICATION****1. Summary**

Pacific Gas and Electric Company (PG&E) and Modesto Irrigation District (MID) (Applicants) submit this application for Approval of Agreement Regarding Interconnection of the proposed Altamont Solar Energy Center (Application). We grant the Application.

Pub. Util. Code section 9610<sup>1</sup> defines the areas where MID and PG&E are authorized to provide electric transmission or distribution service to retail customers. In order to comply with section 9610, and to avoid duplication of facilities and economic waste consistent with sections 9610 and 8101 through 8108, PG&E and MID request that the Commission approve, without modification, the Agreement Regarding Interconnection of, and Transmission and Incidental Retail Electric Service to, Cool Earth Solar, Inc. (Cool Earth)

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<sup>1</sup> Unless otherwise stated, all statutory references are to the California Public Utilities Code.

Project (Agreement), including Attachment A hereto.<sup>2</sup> Pursuant to the Agreement, PG&E would provide station service to the Cool Earth Project, the Altamont Solar Energy Center (ASEC or Project), under PG&E's retail electric service tariffs. The Agreement further provides that as an alternative to interconnection with PG&E, the ASEC may interconnect with MID, and MID would provide related transmission service, and incidental retail electric service, which is limited to power transformer losses when the Project is offline. MID would not purchase the output of the Project.

## **2. The Cool Earth Solar, Inc. Project**

Cool Earth Solar, Inc. (Cool Earth), based in Livermore, California, proposes to develop the Project. Cool Earth is a solar generation project development company, which has no affiliation with either Pacific Gas and Electric Company (PG&E) or Modesto Irrigation District (MID). The Project is currently configured as a 10 megawatt (MW) solar photovoltaic electric generation project, with the potential to increase to 15 to 20 MW. It will be located near the intersection of Kelso Road and Patterson Park Road in Alameda County. In December 2011, Alameda County's East County Board of Zoning Adjustments (EBZA) issued a Conditional use Permit for the Project, and adopted a Mitigated Negative Declaration pursuant to the California Environmental Quality Act (CEQA). On February 28, 2012, the Alameda County Board of Supervisors upheld the decision of the EBZA.<sup>3</sup>

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<sup>2</sup> Because MID is a publicly owned utility, the commission does not have jurisdiction over the retail electric services operations of MID.

<sup>3</sup> The Commission is a Responsible Agency for this proposed project under CEQA. CEQA requires that the Commission consider the environmental consequences of a

*Footnote continued on next page*

The Project will be located in PG&E's electric service territory, and outside the areas where MID provides retail electric service, but near MID's Mountain House substation. Cool Earth will receive station power for the Project from PG&E pursuant to PG&E's retail electric service tariffs.

### **3. Interconnection of the Project**

Cool Earth has two options for interconnecting the Project under the Federal Power Act -- Cool Earth could request interconnection to PG&E's electric transmission system under PG&E's Federal Energy Regulatory Commission-approved tariffs, or Cool Earth could request interconnection to MID's transmission system. Cool Earth has evaluated the potential for interconnecting the Project to PG&E's electric transmission system and determined that doing so would be economically infeasible and would not be completed within the required time frame for the Project. Under the Agreement, as an alternative to interconnection with PG&E, MID may interconnect the Project and provide transmission and incidental retail electric service limited to power transformer losses when the Project is offline. MID would not buy or otherwise take title to the Project output.

PG&E designs and operates its system to provide safe and reliable power to customers. When adding generators in accordance with its interconnection tariffs, PG&E evaluates the impacts of new facilities based upon the size of the

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project that is subject to its discretionary approval. In particular, the Commission must consider the Lead Agency's environmental documents and findings before acting upon or approving the project (CEQA Guideline 15050(b)). We have reviewed and considered the EBZA record and find that it is adequate for our decision-making purposes under CEQA. We find that EBZA reasonably concluded that the project, as mitigated, will have no significant environmental effects and that no additional mitigation measures or consideration of alternatives are required.

generating facility and the characteristics of PG&E's system and identifies upgrades necessary to maintain the safety and reliability of the system.

As described in the Declaration of Peter O'Brien, included as Attachment B hereto, in August 2010, Cool Earth submitted a request to PG&E to interconnect a 10 MW solar photovoltaic project to PG&E's transmission system at PG&E's Herdlyn substation. Approximately one month later, during a scoping meeting, PG&E informed Cool Earth that the requested interconnection would involve line reconducting and significant upgrades to the Herdlyn substation. Cool Earth determined the cost of this work was prohibitive. Accordingly, Cool Earth reduced the project size to 1.5 MW and submitted an interconnection request in November 2010. A System Impact Study completed about five months later indicated that interconnection of the 1.5 MW project to PG&E's system would require approximately \$1.955 million in upgrades. Given the significantly reduced Project size compared to that desired by Cool Earth, and the interconnection costs, Cool Earth began to consider an interconnection to MID's electric transmission system as an alternative to an interconnection with PG&E.

MID's Mountain House substation is closer to the Project site than PG&E's Herdlyn substation. Cool Earth expects that the Mountain House substation could accommodate the currently proposed 10 MW Project, likely at lower cost than a PG&E interconnection and on a schedule that is more in line with the Project timeline. There is an existing MID 21 kilovolt (kV) distribution line and an existing MID 69 kV transmission line to which the Project could interconnect, and space in the switchyard for a step-up transformer. Cool Earth submitted an interconnection application to MID in September 2011. Cool Earth also requested that MID provide transmission service and incidental retail service for the Project, which is limited to power transformer losses when the Project is

offline. Cool Earth withdrew its interconnection application with MID on December 21, 2011, and has informally requested that MID continue to address the steps necessary to interconnect the Project. Cool Earth may submit a new application and request for transmission service and incidental retail electric service, if the Commission approves this Agreement. MID will not purchase or otherwise take title to the output of the Project. The Project site, the areas where MID and PG&E are authorized to provide service, and the relevant PG&E and MID facilities are shown in Exhibit 1 to the Attachment A hereto.

#### **4. Commission Approval Required for Service Area Exception**

In considering Cool Earth's request, MID desires to comply with federal laws requiring transmission owners and operators to provide open access to their transmission systems to third party generators. Additionally, even though the project is located within PG&E's service territory and outside of the areas where MID provides service, MID and PG&E seek to accommodate Cool Earth's request that MID interconnect the Project and provide transmission service and incidental retail electric service for the Project, consistent with state law that defines the areas where MID and PG&E are authorized to provide transmission and distribution service to retail customers, and with state laws encouraging avoidance of duplication of facilities. PG&E and MID seek Commission approval of the service area exception as defined in the Application and described below.

##### **A. Relevant State Law**

Section 9610 defines the areas where MID and PG&E may provide electric transmission and distribution service to retail customers, during the period January 1, 2001 through December 31, 2025. Under section 9610(a), PG&E may not provide service in the following areas where MID provides service: (1) the

“traditional” MID electric service area, as defined in the August 15, 1940 Purchase of Properties agreement between MID and PG&E, and (2) the Mountain House Community Services District. Under section 9610(b)(1) MID and PG&E are authorized to compete for customers in the “Four Cities” area (*i.e.*, Escalon, Oakdale, Riverbend, and Ripon).

Section 9610(d) provides that “[e]xcept as provided in subdivisions (a), (b), and (c), [MID] may not provide electric transmission or distribution service to retail customers in the territory of [PG&E].”<sup>4</sup> Section 9601(c)(2) provides flexibility for MID and PG&E to enter agreements, subject to CPUC approval, in which MID and PG&E consent to service area exceptions or limitations, other than those set forth in section 9610, primarily to avoid duplication of facilities and waste:

The Legislature recognizes that electrical corporations and irrigation districts may each construct infrastructure, and that the infrastructure may, in some cases, be duplicative. In those cases, the legislature encourages irrigation districts and electrical corporations to enter into agreements pursuant to Sections 8101 to 8108, inclusive, where those agreements further the interests of the state as set forth in Section 8101. described below.

Section 8101 recognizes that in certain cases the sale and distribution of electric power in the same geographical area by an electric utility and an irrigation district “results in duplication of service, waste of materials, increase in costs, waste of manpower and economic loss, and is detrimental to the efficiency

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<sup>4</sup> Section 9610(c) provides that MID may provide up to 8 MW of peak sales to Contra Costa Water District for delivery to its Old River Intake Facility and Rock Slough Pumping Plant. That section is not relevant to the Cool Earth interconnection request and, therefore, is not considered further in this Application.

and best interests of such districts.” Section 8101 further provides that it is the policy of the State “to induce such utilities and irrigation districts to prevent or remove such economic waste and to adopt more efficient and economic methods of distribution of electric power and energy, and to that end encourage the definition of areas to be served or not to be served by each.” Sections 9610(b)(2) and 8102 authorize the filing of applications seeking approval of agreements that address these policy considerations.

In this particular case, as indicated by the facts set forth above, allowing MID to interconnect the Project and provide transmission service and incidental retail electric service would avoid the waste of materials, increased costs, waste of manpower and economic loss, and would not be detrimental to the efficiency and best interests of MID or PG&E or their customers.

### **B. Service Area Exception**

In order to comply with section 9610, which defines the areas where MID and PG&E are authorized to provide electric service, and to avoid duplication of facilities and economic waste consistent with sections 9610 and 8101 through 8108, the attached Agreement, in Section II.A., allows for interconnection, transmission service, and incidental retail electric service to Cool Earth in connection with the Project, as follows:

#### **1. Interconnection of Project and Transmission Service by MID**

The Parties agree that the Project may interconnect to MID’s transmission facilities at MID’s Mountain House substation, and that, pursuant to federal open access transmission requirements, MID may provide transmission service to Cool Earth with respect to Project output. The Project site, the areas where MID and PG&E are authorized to provide service, and the relevant MID and

PG&E facilities, including MID's Mountain House substation, are shown in Exhibit 1 to the Agreement (which is included as Attachment A hereto).

## **2. Retail Electric Service**

The Parties agree that, except as expressly provided herein, PG&E shall provide Cool Earth with retail station service at the Project in accordance with PG&E's CPUC-approved tariffs. MID may only provide incidental retail electric service to Cool Earth at the Project, which is limited to power transformer losses when the Project is offline.

## **3. No Service Territory Modifications**

This Agreement provides only for the specified exception to MID's and PG&E's service territories as defined in section 9610 consisting of the interconnection of the Project and related transmission service by MID, and the limited, incidental retail electric service by MID to Cool Earth described in numbered paragraphs 1. and 2. above. Other than the exception specifically provided by the Agreement, there is no change to the areas where MID and PG&E are authorized to provide service, as defined in section 9610.

## **C. Other Obligations**

Section II.B. of the Agreement provides that the Agreement has no effect on MID's and PG&E's respective obligations, if any, under (a) the Interconnection Agreement, executed October 29, 2009, between MID and PG&E, including the requirement that any adverse impacts to the PG&E transmission and distribution system be mitigated by MID and Cool Earth; or (b) California Independent System Operator tariffs.

MID is a California irrigation district established under the Irrigation District Law, Division 11 (commencing with section 20500) of the California Water Code, and a local publicly owned electric utility as that term is defined in



Public Utilities Code section 224.3. MID's principal place of business is Modesto, California, 95354.

The issue to be considered in this proceeding is whether the Commission should approve, without modification, the Agreement, which includes a limited service area exception to allow for interconnection, transmission service, and incidental retail electric service to Cool Earth by MID in connection with the Project. We conclude that such approval is justified.

## **5. Categorization and Need for Hearings**

In Resolution ALJ 176-3300 dated September 13, 2012, the Commission preliminarily categorized this application as Ratesetting, and preliminarily determined that hearings were necessary. Because this application is unopposed, the hearings determination is changed to state that no evidentiary hearings are necessary.

## **6. Waiver of Comment Period**

Pursuant to Rule 14.6(b) of the Commission's Rules of Practice and Procedure, all parties stipulated to waive the 30-day public review and comment period required by Section 311 of the Public Utilities Code and the opportunity to file comments on the proposed decision. Accordingly, this matter was placed on the Commission's agenda directly for prompt action.

## **7. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner and Robert Barnett is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. PG&E and MID request that the Commission approve the Agreement Regarding Interconnection of, and Transmission and Incidental Retail Electric Service to, Cool Earth's Project. Pursuant to the Agreement, PG&E would

provide station service to the Cool Earth Project, the ASEC, under PG&E's retail electric service tariffs. The Agreement further provides that as an alternative to interconnection with PG&E, the ASEC may interconnect with MID, and MID would provide related transmission service, and incidental retail electric service, which is limited to power transformer losses when the Project is offline. MID would not purchase the output of the Project.

2. Cool Earth proposes to develop the Project. Cool Earth is a solar generation project development company, which has no affiliation with either PG&E or MID. The Project is currently configured as a 10 MW solar photovoltaic electric generation project, with the potential to increase to 15 to 20 MW.

The Project will be located in PG&E's electric service territory, and outside of the areas where MID provides retail electric service, but near MID's Mountain House substation. Cool Earth will receive station power for the Project from PG&E pursuant to PG&E's retail electric service tariffs.

3. MID's Mountain House substation is closer to the Project site than PG&E's Herdlyn substation. Cool Earth expects that the Mountain House substation could accommodate the currently proposed 10 MW Project, likely at lower cost than a PG&E interconnection and on a schedule that is more in line with the Project timeline.

4. Cool Earth requests that MID provide transmission service and incidental retail service for the Project, which is limited to power transformer losses when the Project is offline.

5. Even though the Project is located within PG&E's service territory and outside of the areas where MID provides service, MID and PG&E seek to accommodate Cool Earth's request that MID interconnect the Project and provide transmission service and incidental retail electric service for the Project.

6. Allowing MID to interconnect the Project and provide transmission service and incidental retail electric service would avoid the waste of materials, increased costs, waste of manpower and economic loss, and would not be detrimental to the efficiency and best interests of MID or PG&E or their customers.

7. The Commission is a Responsible Agency for the project under CEQA.

8. As a Responsible Agency, the Commission finds that EBZA reasonably concluded that the project, as mitigated, will have no significant environmental effects and that no additional mitigation measures or consideration of alternatives are required.

### **Conclusions of Law**

1. The Project may interconnect to MID's transmission facilities at MID's Mountain House substation, and MID may provide transmission service to Cool Earth with respect to Project output.

2. PG&E shall provide Cool Earth with retail station service at the Project in accordance with PG&E's tariffs. MID may only provide incidental retail electric service to Cool Earth at the Project, which is limited to power transformer losses when the Project is offline.

3. We should approve, without modification, the Agreement, which includes a limited service area exception to allow for interconnection, transmission service, and incidental retail electric service to Cool Earth by MID in connection with the Project.

4. The mitigated negative declaration and mitigation monitoring plan adopted by EBZA are adequate for the Commission's decision-making purposes as a Responsible Agency under CEQA.

5. Hearings are not necessary.
6. This decision should be effective immediately.

**O R D E R**

**IT IS ORDERED** that:

1. The Application of Pacific Gas and Electric Company and Modesto Irrigation District for approval of the agreement regarding the interconnection of the Altamont Solar Energy Center is granted. The Agreement set forth in Attachment A to this decision is approved.
2. The hearing determination is changed to no hearings necessary.
3. Application 12-08-017 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.